



28 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

DLA PIPER US LLP  
153 TOWNSEND STREET  
SUITE 800  
SAN FRANCISCO CA 94107-1957

In re Application of :  
HALLENBECK et al. :  
Application No.: 10/553,459 : DECISION  
PCT No.: PCT/US2004/011622 :  
Int. Filing Date: 15 April 2004 :  
Priority Date: 15 April 2003 :  
Attorney Docket No.: 3802-165-27 NATL :  
For: FLAP ENDONUCLEASE 1 (FEN1) :  
REGULATORY SEQUENCES AND USES THEREOF :

This is a decision on applicants' submission filed 09 March 2007, which has been properly treated as a renewed petition under 37 CFR 1.47(a), in the United States Patent and Trademark Office (USPTO). The petition is DISMISSED as MOOT.

#### BACKGROUND

On 15 April 2004, applicants filed international application PCT/US2004/011622, which designated the United States and claimed a priority date of 15 April 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 28 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 October 2005 (15 October 2005 being a Saturday).

On 17 October 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 19 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 17 November 2006, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a declaration of facts by Jessica N. Cecena, a copy of an e-mail from Jessica Cecena to non-signing inventor Garret

Hampton dated 02 November 2006, and a copy of a letter from Jessica Cecena to non-signing inventor Garret Hampton dated 22 September 2006. The submission has been properly treated as a petition under 37 CFR 1.47(a).

On 12 February 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice for failing to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort and for failing to provide a proper oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

On 09 March 2007, applicants filed the instant submission which has been treated as a renewed petition under 37 CFR 1.47(a). The submission was accompanied by six declarations of inventors.

#### DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declarations of inventors filed 09 March 2007 are in compliance with 37 CFR 1.497(a)-(b).

#### CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.



Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
Facsimile: (571) 273-0459